

Cover letter regarding the need for a better understanding of the history of the Nearshore Live fishery and Spot Prawn trap fishery

Another observation I have made from these meetings, is that the BRTF has been given a very "quick and dirty" explanation of the history of regulations brought upon the nearshore live fishery and spot prawn trap fisheries. Attached is a more detailed account of the impact the Dept. of Fish and Game has had on these fisheries. Their work has been comprehensive and effective in limiting the number of fisherman, preventing habitat destruction and decreasing bycatch, and most importantly limiting the total allowable catch to a sustainable level. As the now classic statement of Barry Cohen said "The table was built".

I am not trying to tell you to abandon the idea of putting in reserves, but do want you to realize that we are protected from overfishing to a very great extent. The reports from Tom Barnes is evidence of many species currently showing abundance and the few that are not, do not live in the nearshore. I honestly feel that the only real benefit from a reserve is to serve as a reference point for more accurate stock assessments. I think the idea of "larvae leaping" is totally theoretical and will be forever impossible to prove, especially with the amount of sea lions, otters, pollution, temperature changes etc. affecting the ecosystems in our area.

Tom Hafer, 2/4/2006
Commercial Fisherman

**History of the adaptation of the Nearshore Live Fishery to the
Marine Life Management Act (MLMA) AB12 and how it addresses
many of the goals of the Marine Life Protection Act.**

This fishery began in the early 1990's close to the time when the US government allowed the Vietnamese special permission to fish in state waters. They began with long lines with > 100 hooks and used live fish tanks on their boats with the knowledge that the Asian market desired their fish as fresh as possible. When others saw the price they were getting for their nearshore rockfish, they began trying their hand at keeping fish alive. Fish traps were designed that provided minimal by catch and were efficient in catching large amounts of the targeted species. Also "sticks" which included PVC pipe with hook and lines and a buoy at the top were developed as a low cost, light weight gear that could be maneuvered easily with a small vessel. This fishery grew quickly since it required a minimal investment and could be done close to shore all year, any day of the week. Many people just bought a kayak and used stick gear to fish in local areas on the weekend to supplement their income. Others were full time fisherman that invested in a 18' - 43' vessel with hauling gear aboard and a live tank and took 2 -3 day trips traveling the coast to fill their tanks. The fishery grew from a handful of live fisherman to >1200 by the late 1990's.

The nearshore live fishery soon came under strict precautionary regulation with the implementation of the MLMA in Jan 1999. The policy of this act recommended the following actions:

- fishing mortality should be kept at low levels in light of the limited and unpredictable capacity of these species for population growth.
- fishing effort should be decreased.
- catches should be limited to targets established each year for individual species
- all catches should be monitored with high confidence
- by catch and discard rates at sea should be documented and monitored, and by catch should be reduced
- marine protected areas should be used to buffer portions of each population and its habitat against variability in recruitment and unforeseen fishing mortality.
- fishery independent surveys should be conducted
- species specific information on age, maturity, fecundity, and locations and condition of capture should be collected.

One of the first things the F&G dept. did was to develop a plan to implement this act with regards to the Nearshore fishery. They called it the Nearshore Fishery Management Plan (NFMP) adopted by the Fish and Game Commission in May 9, 2002. This was their guidance in enacting restrictions with the expectation of

producing a sustainable fishery. This plan cost the department somewhere in the vicinity of 2.5 million to put it together. Many items in it were not truly understood by the fisherman until they were enacted, for instance the 50% precautionary rule, the "historical catch" allocation, and the 60:20 rule for total allowable catch. The combination of these rules listed on a few pages of this 439 page document pulled the rug out of a majority of nearshore fisherman by reducing their allowable catch to 15-20% of prior levels by 2004.

The commercial fisherman realized they were up against a tough battle and that their strength was in numbers so they began forming small associations and alliances. Locally on the Central Coast we had the Morro Bay Commercial Fisherman's Association and the Port San Luis Associations but they were mostly interested in albacore, salmon, trawling etc and were less focused on the nearshore. So a more specific group was developed called the South Central Nearshore Trap Association with just members involved with the nearshore fishery. There must have been over 50 combined meetings related to the nearshore fishery as the department began shaping the do's and don'ts of the fishery. This was a very tedious task that burned out many of the commercial fisherman after realizing many times that they were on the losing end of the stick with dfg and the recreational sector. By the time the idea of MPA's was brought to surface, many of the nearshore fisherman were disgusted with their plight and felt this was salt in their wounds.

The first regulations of the NFMP were the implementation of traditional management measures that most were agreeable to and had actually been requested by the fisherman. They began issuing a "nearshore fishery permit", they established a fish ticket that isolated out the most frequently caught nearshore fish since many had been lumped together that had collected the same price (i.e. greenling and grass bass), they enacted size limits that were adjusted over time and they limited gear to 50 traps and 150 hooks with only 15 hooks per line. Long lining and gillnetting was not allowed inside 1 mile. Also, with the lobbying of the fisherman, they decreased the mesh size of the traps to 2" and they required 5" rings in the funnels to limit the catch of larger breeding fish and to prevent the entrance of mammals. They lowered bycatch and decreased catch levels by not allowing fishing at night and not allowing the use of lobster or crab for bait. They restricted fishing to be done within 750 feet of a pier, break wall, or jetty. They also developed a closed season 2 months of the year to coordinate with the PFMC regulations and later limited the days/week allowed to fish to Monday thru Wednesday. Also, in 1999, they started a Federal Observer program that required fisherman to take an observer for at least 1-2 months of the year. He counted and measured everything taken and released and monitored the health of the discarded fish. (They have collected valuable bycatch information demonstrating that the average nearshore bycatch is 2%!) These first initial steps addressed the first 5 recommended actions of the MLMA but the dfg was not finished.

Plan B for dfg was to put in a restricted access program. The goal was to decrease the fishery to a small amount of fisherman that could make a substantial living on the quotas allocated to the fisherman. Well, with the average full time fisherman catching 15 to 20,000lbs of nearshore fish/year and with the quotas so low this meant that they would have to limit the fishery to less than 10 fisherman! The dfg didn't want to pull back the number of fisherman that drastically so in the end they came up with minimal requirements that allowed 174 shallow nearshore fishery permits and then enacted a 2 for 1 rule to purchase a permit to further reduce the fleet with the capacity goal set at 34. Many fisherman lost their permits but the fishery was still impossible to make a living with the quotas, so many sold their permits. I am not sure what the current number of permit holders is at this time. The other aspect of the restricted access program was that they only issued so many per region based on historical catches. Since most of the nearshore fisherman that had been doing it for the longest were on the Central Coast, a larger amount of the permits were issued to the South Central region (69). This would have been fair if the allocation was regional but the F&G commission voted to make it state-wide to make it more cost effective for the dfg staff to implement. This gave every region the same amount of quota despite their history or number of permits, further hurting the central coast whom had historically been the leader of the coast. Also, the restricted access program gave no recognition to those in the fishery whom were full time fisherman versus those that were more part-time fisherman with much less catch history. Everyone got the same quota. The dfg ran out of funds and time to better refine the restricted access program so no tier system or IFS (Individual Fish Shares) was implemented to give more quota to those with a history of relying on much larger catches to support their business and families. This was the dfg's way of reinforcing the 2nd action requirement of the MLMA.

This was a devastating blow to many but incredibly there was tougher times to come. The next project for dfg was to definitively decrease fishing effort (#3 of MLMA). Because the scientific data available was labeled "data poor" and there were no stock assessments yet done on the nearshore species, the dfg implemented the 50% precautionary rule on the sheephead, cabezon, and greenling. This 50% calculation was an average of 5 years so it was actually more like a ~60% reduction from the peak years. These are the only non finfish species in the nearshore that are not managed by the PFMC. These are also the species most commonly caught in the central and southern regions. Then there was a big struggle for allocation between the sport and commercial

fishermen. Because the commercial live nearshore fishery was fairly new they lost this battle. The central coast fisherman tried to demonstrate that the sport take in our region of cabezon and greenling was less than 1% of the sport catch and it was 75% of the commercial catch but to no avail. The split ended up 60:40. This further decreased the commercial catch of these species another ~10%. Then the stock assessments came out. The first one was on cabezon. It came out at 35% of the spawning biomass. There were many admitted gaps in the science including that there was no independent regional data collection used, but despite the low confidence in the data, the stock assessment was used to further lower the cabezon catch based on the state's NFMP 60:20 rule that means that any assessment under 60% requires further reduction of the catch and that it must be closed if it is below 20%. (The federal rule is 40:10). This lowered the cabezon catch another ~10%. So, the commercial cabezon quota took a 80% total reduction since 1998. The greenling has a similar story of severe reductions. The dfg never had accurate catch totals on the greenling since they were included with other fish so when they calculated the 50% rule they started with a very low number and ended cutting it down by over 89% of the prior levels. The sheephead had a longer historical catch and so did not take as large of cuts as the others but was still diminished significantly by 75% of their prior levels.

After the dfg settled on the Total Allowable Catches (TAC) and how they were to be allocated, they still had a problem with the fishery becoming a "derby" fishery. Instead of the fisherman spreading out their fishing effort over the year, they focused on getting as much as they could before the quota was caught and the fishery was closed. This ended up in the fishery only being open 2 months of the year since the TAC was so low. To get around this problem, the dfg implemented trip limits. They took the TAC and divided it up to allow only a certain amount per permit holder bimonthly with the hope of spreading the catch out to a 10 month season. This diminished the total available catch of cabezon to 1300lbs and of greenling to only 250lbs per permit per year! The sheephead trip limits were more but it limited the spring/summer catch that most of the fishermen in the south had relied on to only 2400lb/2 months.

The fisherman that had relied on much higher catches to even meet their expenses asked if the permits could be stacked but the dfg would not allow it. This was the final punch that knocked out most of the nearshore fisherman. This industry went from being the 2nd highest revenue coming into the Central Coast harbors to nearly non-existent in the last few years with the fisherman and fish buyers leaving for higher ground.

The MLPA framework and regional goals and objectives were then adapted by the Fish and Game Commission. The work done by the dfg the last 8 years on the nearshore live fishery can be applied to accomplishing many aspects of the MLPA goals. Goal 1 - to protect diversity and abundance of marine life, structure and integrity of ecosystems was addressed with adoption of gear limits and restrictions including only use of traps and hook and line limiting habitat destruction and bycatch significantly. This was also addressed with no night fishing, 5" rings, no crab or lobster for bait, and observers monitoring bycatch. Goal 2 - to sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those depleted was addressed by dfg with a restricted access program, TAC, quotas, trip limits, size limits, and the 60:20 rule.

Goal 3 - To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human impact was addressed by protecting recreational interest with historical catch allocations and by the collection of observer data. Also, the quotas are so low that there are many areas farther from port that are rarely fished anymore.

Goal 4 - To protect marine natural heritage including protection of representative and unique marine life habitats in Central California waters for their intrinsic value. This was addressed again with gear restrictions including the limitation of long lines, gill nets, and also trawl nets inside state waters. This was also addressed in the significant catch reductions preventing intense fishing in many regions farther from port including for example the Big Sur area.

Goal 5 - To ensure the MPA's have clearly defined objectives, management measures, and adequate enforcement and based on sound scientific guidelines. This is where the dfg falls short. The scientific data is poor. It is not independent and/or regional. It is difficult to discuss objectives without truly understanding the status of the resource. This is where we think the dfg should have started. We need more peer reviewed data collected collaboratively with the local fisherman using various collection methods over several years. This is where a reserve could act as a reference point for more accurate regional stock assessments. The fisherman want a sustainable fishery but they want it based on real science and if they felt they were getting more accurate stock assessments, management and enforcement would be easier.

Goal 6 - To ensure that the central coast's MPA's are designed and managed to the extent possible as a component of a statewide network. This goal was addressed partially by the dfg by attempting regional management of the nearshore species. The dfg did limit permits per region based on historical catches. This could have been further improved if the dfg had used regional data collection for stock assessments and implemented regional allocation of catches, and regional TACs using historical data. This would have formed regional management that was more appropriate for the existing network of habitat, species, and fisherman in the various regions of the state. This was the ultimate goal of the NFMP, however most of the marine dfg resources have been diverted from the NFMP to the MLPA before the dfg could complete the plan.